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IN THE

Supreme Court of the United States

October Term, 1962

No. 597

JOHN WIGHT, *in propria persona*,

Petitioner,

vs.

MONTANA-DAKOTA UTILITIES CO., a corporation,

Respondent.

Petition for Rehearing of Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

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John Wight, Petitioner, prays that pursuant to the Rules of the Supreme Court of the United States, Rule 58(2), the Court will grant a rehearing of his petition for a Writ of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit, dismissing Petitioner's Appeal as reported in 299 F. 2d 470.

This Petition for Rehearing is made upon the following grounds:

I.

Petitioner alleges that he has been denied his constitutional rights, as provided for under Article III of the Constitution, by the refusal of the courts to try or hear his case on their merits, and to in effect deny him his "day in court".

II.

That Petitioner has been denied his basic and equitable rights which say that "For every wrong there is a remedy." The Courts have refused Petitioner any remedy and refused to recognize the following basic and equitable maxims, all of which are equitable to Petitioner's predicament and case (a) That the Law respects form less than substance; (b) That the Law never requires the impossible; (c) That the Law does not require idle acts.

Please note that Petitioner has been endeavoring for twenty five years to obtain his day in court without success — and to obtain the benefits of those established maxims, both individually and collectively (See Montana Eastern Pipeline Company case; Capital Gas Corporation case; and Mondakota Gas Company case) but the Courts have refused to recognize these maxims and give Petitioner his right to try his case on its merits. Those erroneous decisions rendered by the Courts on the basis of technical rather than on basis of the merits, all add up to the reason I file this petition with the hopes of obtaining justice.

The decisions rendered denying Petitioner that right were so obviously unjust and erroneous as to indicate a bias and prejudice sufficient alone to demand the consideration of the Supreme Court of the United States. One of those decisions which appears to represent the basic thinking of the Lower Courts and which make this Petition necessary and if allowed to stand would act as a bar to prevent Petitioner or in fact any litigant from seeking a remedy for a wrong. For instance: I wish to quote from the decision of the Honorable Judge Pray of the District Court of the United States for

the District of Montana. Civil Case #1217, filed on November 1, 1951, which decision was adopted by other Judges and also by the court in the instant case quote:

> "Under such circumstances, we conclude that, since the case involves only issues which a federal court can not decide and can only refer to a body which also would have no independent jurisdiction to decide, we must decline the case forthrightly rather than resort to such improvisation. The judgment below is affirmed upon the ground that the petitioner has not established a cause of action."

Not only do Justice and equity demand but in order to retain the public respect for our System of Jurisprudence alone, the United States Supreme Court should not permit such erroneous decisions to stand unchallenged, and they will unless this petition is granted.

Petitioner further prays that his Petition for Rehearing be granted in order to right the wrong caused by the District Court in dismissing Petitioner's case for failure to timely pay a $5.00 filing fee, and then later holding that Petitioner's case was adjudicated on its merits. That erroneous decision has placed this Petitioner in great financial jeopardy; and if allowed to stand would effectually bar and prevent Petitioner from even successfully defending himself against the malicious prosecution action, or ever trying his cases on their merits with the result that Petitioner may be penalized $150,000.00 simply because he believed the Courts would honor the maxim, that "there is a remedy for every wrong". Can you conceive of anything more unfair, unjust and ironic should that happen?

The Montana Dakota Utilities Company wrongfully urged the Court to dismiss his lawsuit against them, and then obtained judicial support to their position that, that dismissal was an adjudication of the action. The maxims that "One must not change his purpose to the injury of another" and that "No one can take advantage of his own wrong" has not relieved this Petitioner from an unjust jeopardy resulting from the fact that he filed a lawsuit to remedy a great wrong which was erroneously dismissed because a filing fee was not paid, but instead of being granted a remedy, he is now forced to defend himself against an action for Malicious Prosecution under a claim that he wrongfully brought that lawsuit which was so dismissed.

Are not Petitioner's Constitutional and substantial rights being further infringed upon when the Courts erroneously hold: "That he has no access to a legal remedy in order to right a wrong, but at the same time to permit Petitioner's rights and welfare to be jeopardized and faced with bankruptcy in permitting Defendants the Montana Dakota Utilities Company to capitalize on the Court's own errors, which respondents urged in the first place.

Do not all of these circumstances bring into play the applicable and equitable maxims above cited? This case should be taken over by the Supreme Court.

Most Respectfully submitted,

JOHN WIGHT,
In Propria Persona.